HON'BLE SRI G.S.SINGHVI, THE CHIEF JUSTICE

and

HON'BLE SRI JUSTICE G.BHAVANI PRASAD

WRIT APPEAL NO : 1267 of 2005

And

W.P.NO.11967 OF 2005

Between:

Anaparthi Ramana Rao

..... APPELLANT

AND

Vangapandu Satyanarayana and 2 others.

.....RESPONDENTs

::JUDGMENT::

Counsel for the Appellant : Sri O. Manohar Reddy
(Non-petitioner No.3)

Counsel for Respondent No.1 : Mr.K.Manik Prabhu

(Writ Petitioner)

Counsel for Respondents 2 & 3 : G.P. for Prohibition and Excise.

Dated 02.02.2006

Per G.S.Singhvi, CJ

This appeal is directed against order dated 4.7.2005 passed by the learned Single Judge in W.P.M.P.No.15232 of 2005 (W.P.No.11967 of 2005) whereby he accepted the prayer made by the writ petitioner and declared that the licence granted to the appellant (3rd respondent in the writ petition) shall remain inoperative. The operative portion of that order reads as under:

> "Having regard to the cavalier and negligent fashion in which the enquiry into objections of the petitioners was made by the 2nd respondent, this Court considers it appropriate that the 4th respondent – the Principal Secretary, Revenue (Excise) must conduct an enquiry as to whether G.Suri Demudu was an authorized/Certified notary as on the date he notarized the Form 2-A affidavits of the 3rd respondent in these writ petitions and if not, what consequences should follow. As the approach of the 2nd respondent to the petitioners' objection is so casual, as briefly adverted to herein, the 1st respondent is directed to consider the affidavit filed by the 2nd respondent in greater detail and also consider whether any action departmentally is warranted to infuse greater commitment by the concerned excise department officials to enable efficient functioning of the excise administration, as perhaps these revenues constitute a critical component of the State revenues. Till the enquiry is completed and report submitted to this Court by the 4th respondent as to what action is taken on the status of From 2-A affidavits filed by the 3rd respondents in each of the writ petitions, the license granted to the 3rd respondents in these writ petitions shall be inoperable.

The appellant challenged the aforementioned order by filing an appeal under Clause 15 of the Letters Patent. He also filed W.A.M.P.No.2324 of 2005 for staying the operation of the order passed by the learned Single Judge.

While admitting the appeal on 11.7.2005 and issuing notice in W.A.M.P.No.2324 of 2005, the Division Bench suspended the operation of the order of the learned Single Judge. The writ petitioner challenged the order of the Division Bench by filing petition for Special Leave to Appeal (Civil) Nos.17579-17580 of 2005. The same was disposed of by the Honourable Supreme Court vide order dated 2.9.2005, the relevant extract of which is reproduced below.

> "It is the contention of the learned counsel for the respondent that he filed a counter affidavit before the learned single Judge in which he had specifically raised the point that the Notary against whom the allegations had made by the petitioner should have been made a party so that the question whether he was duly licensed to act as a Notary could have been decided in this presence. This particular issue was not considered by the learned single Judge. However, since an enquiry is required, we dispose of the Special Leave Petition by modifying the impugned interim order of the Division Bench by directing the Principal Secretary, Revenue (Excise) to conduct an enquiry as directed by the learned single Judge, within a period of six weeks from the date of the receipt of a copy of this order. The Principal Secretary shall dispose of the matter after giving notice to the parties as well as to the Notary concerned and with a reasoned order. Till the enquiry is so held, the interim order granted by the High Court shall continue to operate. If the enquiry is decided against the Notary in question of if no order is passed during the period of four weeks by reason of any delay caused by the respondent or the Notary the interim order passed by the Division Bench will stand vacated. This order pertains only to the question of interim relief. The writ appeal which is pending before the Division Bench will be heard and disposed of on its own merits."

In compliance of the direction given by the Supreme Court, Principal Secretary, Revenue (Excise) Department, Government of Andhra Pradesh conducted an enquiry and submitted a report dated Nil which was placed on the record of this appeal along with memo dated 23.12.2005 signed by the Government Pleader for Prohibition and Excise.

On 31.1.2006, the Court after going through the report of the Principal

Secretary, Revenue (Excise) Department, observed that the writ petitioner may have to challenge the findings and conclusions recorded by the Principal Secretary and the decision taken by the competent authority to retrospectively renew the certificate granted to Sri G.Suri Demudu entitling him to practice as Notary.

Today, learned counsel for the writ petitioner submitted that his client may be permitted to withdraw the main petition with liberty to file fresh petition challenging the decision of the Government/competent authority to retrospectively renew the certificate of G.Suri Demudu and also challenge the grant of licence to the appellant on the strength of the verification made by Sri G.Suri Demudu.

In our opinion, the request made by the learned counsel is reasonable and merits acceptance. Hence, Writ Petition No.11967 of 2005 is dismissed as withdrawn with liberty in terms of the prayer made by the learned counsel for the petitioner.

As a sequel to the dismissal of the writ petition, this appeal and miscellaneous petitions filed in the writ petition as well as writ appeal are disposed of as infructuous.

G.S.SINGHVI, CJ

Dt.2.2.2006

G.BHAVANI PRASAD,J

Msv/vtv